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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,096	02/12/2002	Charles E. Taylor	SHPR-01028US4 SRM	9062
23910	7590	02/18/2005	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111				MCDONALD, RODNEY GLENN
			ART UNIT	PAPER NUMBER
			1753	

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Hr

Office Action Summary	Application No.	Applicant(s)	
	10/074,096	TAYLOR ET AL.	
	Examiner	Art Unit	
	Rodney G. McDonald	1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 November 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 52-93 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 84-93 is/are allowed.
 6) Claim(s) 71-78 and 83 is/are rejected.
 7) Claim(s) 52-70 and 79-82 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____. -
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-26-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 52-83 are objected to because of the following informalities:

In Claim 52, line 18, "planer" should be "planar".

In Claim 59, lines 13 and 16, "planer" should be "planar"

In Claim 71, lines 13 and 16, "planer" should be "planar".

In Claim 79, lines 13 and 15, "planer" should be "planar".

In Claim 83, line 14, "planer" should be "planar".

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 71-78 and 83 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/074,379 in view of Hak (U.S. Pat. 6,494,940).

Application No. 10/074,379 teach a housing having a removable inlet and outlet, an ion generator positioned in the housing, and a germicidal lamp. (See '379 Claims 1-21)

The difference between Application 10/074,379 and the present claims is that the safety mechanism is not discussed.

Hak is discussed above and teach an air purifier that includes an inlet grill 39 detachable from the air purifier and an outlet grill detachable from the air purifier. (Column 5 lines 28-43; Column 7 lines 46-56) When the outlet grille is removed access is provided to the germicidal lamp for removal or installation. (See Fig. 8) A louver assembly 118 is supported below the frame 108, which supports the outlet grille 106. The louver assembly 118 is substantially light impermeable in that it substantially prevents passage of potentially harmful UV light supplied from the lamp 88 through the air outlet 37. (Column 7 lines 57-63) Hak teach further that a safety feature to be incorporated in an air purifier includes inlet and outlet safety switches which utilizes tabs to interrupt upon removal of the inlet or outlet grilles the power to the ultraviolet lamp to prevent exposure to ultraviolet light. (Column 10 lines 24-54)

The motivation for providing a safety mechanism is that it allows for preventing inadvertent exposure to ultraviolet light. (Column 3 lines 59-63)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Application 10/074,379 by utilizing a safety mechanism as taught by Hak because it allows for preventing inadvertent exposure to ultraviolet light.

Allowable Subject Matter

Claims 84-93 are allowed

Claims 52-70 and 79-82 are objected to but would be allowable if the objection is corrected.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 52-58 are allowable over the prior art of record because the prior art of record does not teach the claimed subject matter including first and second vertically elongated walls adjacent the germicidal lamp, the first wall located between the first air vent and the lamp to prevent a user from looking through the first air vent and directly viewing UV radiation emitted from the lamp, the second wall located between the second air vent and the lamp to prevent a user from looking through the second air vent and directly view UV radiation emitted from the lamp.

Claims 59-70 are allowable over the prior art of record because the prior art of record does not teach the claimed subject matter including a wall attached to the first side of the removable panel, the wall arranged to prevent a user from directly looking through the inlet and directly viewing UV radiation emitted from the lamp when the panel is secured to the housing.

Claim 84-88 is allowable over the prior art of record because the prior art of record does not teach an air conditioner device as claimed including a free-standing housing defining an interior between a first air vent and second air vent; a removable panel, securable to the housing, and within which is defined said one of said air vents,

the panel including a first side that faces the interior of the housing and a second side that faces away from the housing when the panel is secured to the housing; an ion generator positioned within the interior of the housing; a germicidal lamp positioned within the interior of the housing and a wall attached to the first side of the removable panel, the wall arranged to prevent a user from directly looking through the one of the air vents defined in the removable panel and directly viewing UV radiation emitted from the lamp when the panel is secured to the housing; wherein the lamp is accessible to a user when the removable panel and the attached wall are removed from the housing.

Claims 89-93 are allowable over the prior art of record because the prior art of record does not teach an air conditioner device as claimed including a removable panel securable to the housing and within which is defined the air vent, the panel including a first side that faces the interior of the housing and a second side that faces away from the housing when the panel is secured to the housing and a wall attached to the first side of the removable panel and arranged to prevent a user from looking through the air vent and directly viewing UV radiation emitted from the lamp wherein the lamp is accessible to a user when the removable panel and the wall attached thereto are removed from the housing.

Response to Arguments

Applicant's arguments filed November 26, 2004 have been fully considered.

Applicant has not provided arguments or reasons as to why the obviousness type double patenting rejection over Application No. 10/074,379 is improper. Applicant's terminal disclaimer only disclaims over Application No. 10/074,347. Therefore the

obviousness type double patenting rejection over Application 10/074,379 will be maintained.

The obviousness type double patenting rejection over Application No. 10/074,347 has been overcome.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M- Th with Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney G. McDonald
Primary Examiner
Art Unit 1753

RM
February 16, 2005